

FILED '07 AUG 10 11:17 USDC-ORP

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON**

**STUART LEE BOYD,**

**CV No. 07-543 ST**

**Petitioner,**

**ORDER DISMISSING HABEAS  
CORPUS PETITION**

**vs.**

**BRIAN BELLEQUE,**

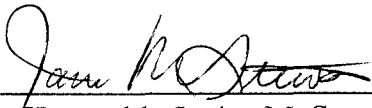
**Respondent.**

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IT IS HEREBY ORDERED that the Petition for a Writ of Habeas Corpus is dismissed without prejudice. In the event that the decision in *Blakely v. Washington*, 542 U.S. 296 (2004), is later made retroactive to cases on collateral review, Petitioner has leave to reopen this case only as to the *Blakely* issues, and the limitations period shall be deemed tolled from the date this Order is signed until sixty days after the date of the decision rendering *Blakely* retroactively applicable. If *Blakely* is made retroactive and the Petitioner moves to reopen this case during the above-referenced 60-day period, Petitioner may also amend the Petition

as of right so as to properly plead all *Blakely*-based claims in this Court. If the case is reopened, Respondent may assert any procedural defenses that were available when this Order issued.

IT IS SO ORDERED this 16<sup>th</sup> day of August, 2007.

  
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The Honorable Janice M. Stewart  
United States Magistrate Judge

Submitted by:

/s/ Anthony D. Bornstein  
Anthony D. Bornstein  
Attorney for Petitioner

Lynn Larsen (by consent)  
Assistant Attorney General  
Attorney for Respondent